

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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TOMAS D. CUESTA, SR., Pro se,

Plaintiff,

v.

STATE OF WISCONSIN,  
DANE COUNTY COURT OFFICIALS  
and LYN C. OPELT,

Defendants.

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ORDER

10-cv-48-slc

This case was transferred to this venue from the Eastern District of Wisconsin by order of the Hon. Rudolph T. Randa dated February 3, 2010. Plaintiff is a prisoner confined at the Green Bay Correctional Institution in Green Bay, Wisconsin. He asks for leave to proceed *in forma pauperis*. Because plaintiff is a prisoner, he is subject to the 1996 Prisoner Litigation Reform Act. This means that before this court may decide whether he can proceed with his complaint *in forma pauperis*, plaintiff will have to make an initial partial payment of the filing fee. From the trust fund account statement plaintiff has submitted, I calculate his initial partial payment to be \$2.87. Also, he must pay the remainder of the fee in monthly installments even if his request for leave to proceed is denied. If plaintiff does not have the money to make the initial partial payment in his regular account, he will have to arrange with prison authorities to pay some or all of the assessment from his release account. This does not mean that plaintiff is free to ask prison authorities to pay *all* of his filing fee from his release account. The only amount plaintiff must pay at this time is the \$2.87 initial partial payment. Before prison officials take any portion of that amount from plaintiff's release account, they may first take from plaintiff's regular account whatever amount up to the full amount plaintiff owes. Plaintiff

should show a copy of this order to prison officials to insure that they are aware they should send plaintiff's initial partial payment to this court.

ORDER

IT IS ORDERED that plaintiff is assessed \$2.87 as an initial partial payment of the \$350 fee for filing this case. He is to submit a check or money order made payable to the clerk of this court in the amount of \$2.87 on or before March 4, 2010. If, by March 4, 2010, plaintiff fails to make the initial partial payment or show cause for his failure to do so, he will be held to have withdrawn this action voluntarily. In that event, the clerk of court is directed to close this file without prejudice to plaintiff's filing his case at a later date.

Entered this 11<sup>th</sup> day of February, 2010.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge